



**UNITED STATES DEPARTMENT OF COMMERCE**  
**The Assistant Secretary for Communications**  
**and Information**  
Washington, D.C. 20230

MAY 11 2012

Mr. Darryl Ackley  
Cabinet Secretary and State Chief Information Officer  
New Mexico Department of Information Technology  
715 Alta Vista Street  
Santa Fe, NM 87502-0110

**Re: Broadband Technology Opportunities Program (BTOP)**  
**New Mexico Department of Information Technology (Grant Award**  
**NT10BIX5570097)**

Dear Mr. Ackley:

Thank you for your hard work to implement your grant to deploy next-generation public safety broadband facilities in the state of New Mexico. Being on the cutting edge of a new network is both exhilarating and challenging, and your dedication to serving your community is clear from our conversations and the work you have been doing on your project. However, as we discussed a few weeks ago, the Middle Class Tax Relief and Job Creation Act of 2012 (the Act) has radically altered the assumptions on which we awarded your grant in 2010. This letter is to inform you that I have recommended and the Grants Office has agreed to partially suspend the 700 MHz BTOP projects so that we can work individually with you to determine the best course forward for your grant that ensures, as best we can, that the equipment and facilities bought with taxpayer funds will be incorporated into the new national public safety broadband network.

Congress's action in February to establish a nationwide public safety broadband network based on a single, nationwide architecture is an important step to realizing our shared goal of an interoperable public safety broadband network. The Act provides additional spectrum, funding, and a strong governance structure to advance this much-needed effort. Ultimately, all public safety responders, regardless of their location, will be able to communicate using advanced applications that will improve public safety's ability to stay safe and do its job well.

Congress created the First Responder Network Authority (FirstNet) within NTIA to oversee the deployment, maintenance, and operation of the new network and placed a heavy responsibility on FirstNet to ensure the network's success.<sup>1</sup> Having a strong centralized authority will avoid the balkanization that has plagued earlier efforts at interoperable public safety communications, will lower costs because of economies of scale, and will maintain an undivided focus on interoperability and stronger security. One of FirstNet's statutory responsibilities is to consult with the future public safety customers of the nationwide network—states, localities, territories, and tribes—and translate their requirements and needs into the design and specifications for the

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<sup>1</sup> Middle Class Tax Relief and Job Creation Act of 2012 ("the Act"), Pub. L. No. 112-96, 126 Stat. 156, §6206 (2012) (delineating specific powers and instructing FirstNet to take other actions necessary, appropriate, or advisable to accomplish the overall purpose of the legislation).

national network.<sup>2</sup> FirstNet must then craft the single network architecture and develop requests for proposals for the construction and operation of the network.<sup>3</sup>

With the good news of Congress's action comes a basic fact – the new law dramatically changes the assumptions on which we awarded the public safety grants in 2010. These radically different circumstances, and the Recovery Act's mandate to prudently manage taxpayer funds, require us to reassess how to proceed with the projects while FirstNet organizes itself to design and build the single interoperable national network envisioned by Congress.<sup>4</sup> As we conduct this reassessment, we are guided by the following considerations:

- We want to keep the grant money in the communities that received the grants; and
- We want to ensure that the grant dollars are spent on facilities and equipment that will be incorporated into FirstNet's single nationwide public safety network.

We are exploring fiscally prudent ways to move forward, which include obtaining an extension of the grant deadlines from the Office of Management and Budget (OMB). But we are also cognizant of the fact that, given the ambitious deadlines we have imposed on grantees, some have taken delivery of equipment and have started installation. Moreover, I acknowledge that proceeding with one or more projects, if practicable, could yield valuable information for FirstNet.

Accordingly, I asked each of you in April to pause with respect to ordering, taking delivery, or installing LTE equipment. Nonetheless, in the absence of a formal suspension order, I understand that some grantees feel pressured to continue with the purchase and installation of LTE equipment. Doing so when FirstNet has not yet ensured how to integrate these projects into the nationwide network puts at risk the millions of taxpayer dollars that are funding your project – a risk that neither NTIA nor your communities should be willing to take at this time. Moreover, purchase and installation of this equipment before the FirstNet Board of Directors has even met could add costs to the FirstNet network and negatively impact the ultimate business case and deployment of the national network in ways that could make the network economically unattractive to its public safety customers.

We cannot predict the FirstNet Board of Directors' upcoming decisions with regard to network architecture, security, and other considerations, but we need to make sure that FirstNet has every possible chance to succeed in the tasks before it. We must move forward in a way that appropriately balances near-term public safety needs with prudent management of limited resources and the longer-term goal of a truly nationwide and interoperable broadband network for public safety.

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<sup>2</sup> *Id.* at (c)(2).

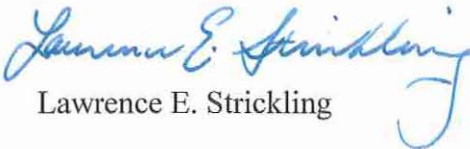
<sup>3</sup> *Id.* at (b).

<sup>4</sup> *See* American Recovery and Reinvestment Act of 2009, Public Law 111–5, 123 Stat. 115, §3(b) (2009) (stating the general principle that Recovery Act funds should be used to advance statutory purposes consistent with prudent management).

In the coming weeks, we will discuss your project's progress to date and scope out specific LTE-related and non-LTE-related activities contained in your project. We will also provide you the opportunity to propose revisions to your project to reallocate funds from LTE-related items to non-LTE-related items and discuss potential paths forward for the LTE portion of your project (e.g., if LTE vendors provide indemnification against the risk their equipment will not be used by FirstNet) and the larger lessons learned that may be applied to FirstNet.

We recognize your hard work and dedication to meet the strict timelines of the Recovery Act. Our ultimate goal is to enable all of public safety, nationwide, to benefit from the public safety broadband network. We will do all we can to ensure that you remain on the forefront of public safety broadband efforts, that the grant funds for which you have been working so hard stay in your communities, and that FirstNet moves forward as expeditiously as possible. We ask for your help in meeting these goals.

Sincerely,



Lawrence E. Strickling